

REMARKS

In response to the Office Action of October 5, 2004, Applicants request that the restriction requirement and the rejection of the examined claims be reconsidered in view of the following comments.

Claims 37-65 are pending in this application. The examiner has divided the claims into three groups as follows:

Group I: claims 37-40 and 58-62

Group IA: claims 41-57

Group II: claims 63-65

Applicants orally elected the claims of Group I, claims 37-40 and 58-62, with traverse, in a telephone conversation with the examiner. Applicants will address the restriction requirement below.

The examiner reiterated the restriction requirement and set forth the results of his substantive examination of the elected claims in the outstanding Office Action. For reasons that will become apparent, Applicants initially address below the basis for the rejection of claims 37-40 and 58-62 and then address the restriction requirement.

As an initial point, Applicants wish to thank the examiner for the courtesy of his telephone conference with the Applicants' undersigned representative. The rejection of the elected claims and the restriction requirement were discussed.

Claims 37-40 and 58-62 were rejected under 35 U.S.C. §102(B) as anticipated by Rodriguez et al. (*Journal of Materials Science*). This rejection is traversed.

As was discussed during the interview, each of the inventors named on the present application is listed as an author of this paper. The paper was published in December of 1999, which is after the September, 1999, filing date of the Applicants' priority Spanish application. Applicants hereby submit an English language translation of their priority document for the examiner's convenience. The contents of the two applications are substantially the same and the claims of the present U.S. application are supported by the priority application. The only differences between the two applications are that the U.S. application (and the PCT application on which it is based) contains several additional examples of copolymers with DMA in example 3 and copolymers with AMPS in example 4, and the use of AMPS as a meaning for monomer B was added in the PCT application. The coating of the polymers of the invention onto stents also was newly described in the PCT application.

Accordingly, the cited paper does not qualify as a reference under 35 U.S.C. §102, and Applicants request that the rejection be withdrawn.

Applicants' representative also discussed with the examiner having the claims of Group IA, claims 41-57, rejoined with those of Group I. As was noted, claim 41 depends from claim 37, in which $-[B]_n-$ is as defined in claim 37 and the $-[A]_m-$ group of claim 37 has been defined as a monomer carrying triflusal. In addition, rejoining the claims of Group IA with those of Group I will not require additional searching on the examiner's part; in searching the subject matter of claim 37 the examiner inherently has searched the subject matter of claim 41. Indeed, the disclosure in the reference cited against the

claims of Group I is relevant to the embodiments of claim 37 represented by claims 41-57. As explained above, the reference is not properly available against the claims of this application, but its citation shows that the examiner has indeed already searched the art relevant to the subject matter of claims 41-57. Applicants note with appreciation that in his written summary of the telephone interview with their undersigned representative, the examiner agreed to the rejoinder of the claims of Group IA with those of Group I.

As a final point, Applicants note that at the end of the Office Action the examiner made reference to a paper by Luo et al. as a "document of interest," relevant to the embodiments of the invention in which A is a monomer carrying HTB. Applicants wish to point out that the use of the term "HTB" in this publication is simply a coincidence, as it does not appear to have any relationship to the compound identified in this application as HTB, which in the present instance stands for 2-hydroxy-4-trifluoromethylbenzoic acid. In addition, the co-polymers prepared in this reference lack the monomer A of the present invention; i.e., the monomer carrying triflusal or HTB. In the present invention m cannot be 0; that is, monomer A must always be present, for A is an essential feature of the present invention.

In view of the foregoing discussion, which memorializes the substance of the telephone interview with the examiner, Applicants request that claims 37-62 be allowed. If the examiner has any final questions regarding these claims, he is requested to call the Applicants' undersigned representative to address them.

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